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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,093	04/01/2004	Derek Wyatt	3084.EEM	9478
7590 11/25/2008				
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EXAMINER				
PATTERSON, MARC A				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
11/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/816,093

**Applicant(s)**

WYATT, DEREK

**Examiner**

MARC A. PATTERSON

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 14-16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)  
3) ☒ Information Disclosure Statement(s) (PTO/SE-08)  
Paper No(s)/Mail Date 1/23/08  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**  
**REPEATED REJECTIONS**

1. The 35 U.S.C. 103(a) rejection of Claims 14 – 16 as being unpatentable over Seelich et al. (U.S. Patent No. 6,579,537 B2) in view of Ota et al (U.S. Patent Publication No. 2003/0055179), of record on page 2 of the previous Action, is repeated.

**ANSWERS TO APPLICANT'S ARGUMENTS**

2. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 14 – 16 as being unpatentable over Seelich et al. (U.S. Patent No. 6,579,537 B2) in view of Ota et al (U.S. Patent Publication No. 2003/0055179), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 1 of the remarks dated October 23, 2008 (pages not numbered), that there is no motivation in Seelich et al or Ota et al to reduce freeze – thaw voids or to combine their elements to reduce freeze thaw voids.

However, as stated on page 2 of the previous Action, motivation is provided for providing for the modulus of Ota et al in Seelich et al, thus disclosing the limitations of the claimed invention; a method of reducing freeze thaw voids is therefore disclosed by Seelich et al and Ota et al.

Applicant also argues on page 1 that roughening is not disclosed by Seelich et al or Ota et al.

However, either the claimed roughness or a thickness of 0.0254 mm to 0.762 mm is claimed; the requirement of both is not claimed.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/  
Primary Examiner, Art Unit 1794